

(ii) The product must not bear claims either to control or mitigate microorganisms that pose a threat to human health, including but not limited to disease transmitting bacteria or viruses, or claims to control insects or rodents carrying specific diseases, including, but not limited to ticks that carry Lyme disease.

(iii) The product must not include any false and misleading labeling statements, including those listed in 40 CFR 156.10(a)(5)(i) through (viii).

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61 and 64

[FCC 96-34]

Inmate Calling Services—Prison Payphones

AGENCY: Federal Communications Commission.

ACTION: Declaratory ruling.

SUMMARY: On January 30, 1996, the Commission adopted a Declaratory Ruling that inmate-only payphone instruments are customer premises equipment (CPE) that must be provided on an unregulated basis. The Commission additionally denied petitioner's request that certain inmate-only services be considered enhanced services. The intended effect is to ensure that the inmate-only payphone market remains competitive.

EFFECTIVE DATE: March 6, 1996.

FOR FURTHER INFORMATION CONTACT: Alan A. Thomas, Attorney, Network Services Division, Common Carrier Bureau, (202) 418-2338.

SUPPLEMENTARY INFORMATION: This report summarizes the Commission's Declaratory Ruling in the matter of Petition for Declaratory Ruling by the Inmate Calling Services Providers Task Force—Prison Payphones, (RM-8181, FCC 96-34, adopted January 30, 1996 and released February 20, 1996). The file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, room 239, 1919 M St., N.W., Washington D.C., or copies may be purchased from the Commission's duplicating contractor, ITS, Inc. 2100 M St., N.W., Suite 140, Washington, D.C. 20037, phone (202) 857-3800.

Analysis of Proceeding

1. Petitioner requested the Commission to rule that LECs must

provide inmate-only payphone instruments as detariffed CPE and must offer certain prison inmate payphone services as unregulated enhanced services. Petitioner argued that inmate-only payphone service is distinguishable from pay telephone service offered to the "transient mobile public," as defined in Tonka Tools, Inc. 58 RR 2d 903, 50 FR 24694 (June 12, 1985) and therefore not entitled to special treatment pursuant to Amendment of Section 64.702 of the Commission's Rules and Regulations (Computer II), 77 FCC 2d 384 (1980), 45 FR 24694 (May 13, 1980).

2. In this Declaratory Ruling, the Commission concluded that the decision in Tonka resulted from a concern that payphones should be available to the "transient mobile" or general public. Those concerns, the Commission concluded, are not applicable in the context of prison payphones. Thus the Commission agreed with Petitioner that inmate-only payphones are to be considered CPE for regulatory purposes.

3. Additionally, the Commission rejected Petitioner's argument that inmate phone services such as call monitoring and blocking, and restrictions on call timing and duration are enhanced services under the Commission's Computer II decisions. The Commission concluded that these services may be characterized as adjuncts to basic service under existing precedent. The Commission also concluded that the record provided insufficient detail to support a ruling that inmate Personal Identification Numbers (PINs) are an enhanced service.

4. Ordering Clauses. *It is ordered*, pursuant to Section 4 of the Communications Act as amended, 47 U.S.C. §§ 154, that the petition for declaratory ruling filed by the Inmate Calling Services Providers Task Force of the American Public Communication Council is Granted to the extent discussed and otherwise IS Denied.

5. *It is further ordered* that carriers shall notify their customers in writing for prison payphone service of the change in status of inmate-only customer premises equipment from a regulated activity to a nonregulated activity by July 1, 1996. Accordingly, by September 2, 1996, the LECs must reclassify any inmate-only pay telephone investment recorded in Account 32.2351, Public telephone terminal equipment, along with the associated depreciation and tax reserves and any related expenses, from a regulated activity to nonregulated activity pursuant to our Part 64 rules.

The LECs shall also establish whatever Part 64 cost pools are needed to accomplish this reclassification and shall file revisions to their Cost Allocation Manuals reflecting this reclassification within sixty (60) days prior to the effective date of the change. In addition, carriers must make appropriate tariff changes pursuant to Part 61 of the Commission's Rules.

6. List of Subjects in 47 CFR Parts 61 and 64

Inmate-only payphone equipment, Communications common carriers, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

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47 CFR Part 64

[CC Docket No. 91-115; FCC 96-38]

Tariffing Requirements for Billing Name and Address

AGENCY: Federal Communications Commission.

ACTION: Final Rule; petition for reconsideration.

SUMMARY: On February 1, 1996, the Commission adopted a Third Order on Reconsideration in this proceeding denying two petitions for reconsideration filed by US West Communications, Inc. (US West). In its first petition, US West sought reconsideration of the Commission's denial of its petition for stay of the Order requiring LECs to file tariffs governing the provision of billing name and address (BNA) information. The Commission denied this petition as repetitious, because the Commission had addressed all of US West's arguments in a previous Order. In the other petition, US West sought reconsideration of the prohibition against using BNA information for marketing purposes, which the Commission adopted in 1993 to protect end user privacy when local exchange carriers provide BNA information under tariff. US West also claimed that the previous Orders in this proceeding did not explain whether the BNA rules applied to all BNA information, or only to BNA information associated with calling card, third party, and collect calls. The Commission denied this petition to the extent it sought to eliminate the prohibition against using BNA information for marketing purposes, and granted it to the extent it